STATE OF CALIFORNIA DEPARTMENT OF INSURANCE 45 Fremont Street, 21st Floor

San Francisco, California 94105

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FINAL STATEMENT OF REASONS AND UPDATED INFORMATIVE DIGEST

INTRODUCTION AND UPDATED INFORMATIVE DIGEST

On October 24, 2008, California Insurance Commissioner Steve Poizner held a public hearing to discuss proposed changes to the Plan of Operations Manual for the California Low Cost Automobile ("CLCA") Insurance program. No member of the public presented oral testimony at the public hearing. Similarly, the Commissioner did not receive any public comments concerning the proposed changes to the Plan of Operations.

Commissioner Poizner has determined, after public hearing and opportunity for comment, to adopt the proposed changes to the Plan of Operations Manual as proposed.

California Insurance Code section 11629.7(d) provides that the Commissioner shall approve a reasonable plan for the equitable apportionment of Low Cost Automobile business and that such plan shall be established within the California Automobile Assigned Risk Plan, as set forth in section 11620. By this proposed rulemaking action, the Commissioner hereby intends to incorporate the amendments to the CLCA program Plan of Operations set forth within the rulemaking file. As is explained below, each of the proposed changes are necessary to make the Plan consistent with existing law and policy.

STATEMENT OF SPECIFIC PURPOSE AND NECESSITY FOR REGULATIONS

California Insurance Code sections 11629.7 through 11629.85 require, within the California Automobile Assigned Risk Plan ("CAARP") established under section 11620, a statewide low cost automobile insurance program. Because the program is established and administered through CAARP, CAARP procedures are applied where appropriate and consistent with the low cost automobile insurance statutes.

Insurance Code sections 11620, 11624 and 11629.7 provide that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of eligible consumers. This plan, approved by the Commissioner, is referenced in Title 10, section 2498.6 of the California Code of Regulations. The amendments to the plan are reasonably necessary to implement, interpret and make specific Insurance Code sections 1734, 11620, 11623, 11624 and 11629.7, which authorize the establishment of a Plan of Operations for the implementation of the California Low Cost Automobile Insurance Program. These proposed amendments, by establishing a Plan of Operations for Low Cost Automobile Insurance in each county, fulfill the statutory requirements set forth in section 11629.7, et seq.

The specific purpose of each amendment and an explanation of the reasons why each amendment is required to carry out the purpose of the Low Cost Automobile Program are described directly below.

Introduction and Exhibit A

The introduction to the Plan of Operations has been revised by this rulemaking action to eliminate the wording describing the initial counties in which the CLCA was operational. Currently, the CLCA program is available to every county in California. Consequently, the verbiage which explains the manner in which the Commissioner may expand the CLCA program to additional counties is now obsolete.

This revision is reasonably necessary to ensure that the introduction to the CLCA program accurately characterizes the CLCA product as one that is currently available in every California county.

Similarly, the portion of the introduction which summarizes Part V of the Plan of Operations has been revised to describe Exhibit A in terms of "statistical guidelines" rather than "residence eligibility guidelines." Exhibit A is revised to add statistical reporting codes for use by the assigned insurer to report Low Cost fulfillment data when such insurer underwrites applicants that use a Post Office Box or are otherwise lacking a physical street address.

This revision is reasonably necessary to reflect the fact that the location of one's residence in California is no longer a criterion for the determination of CLCA program eligibility. This revision will also ensure that assigned insurers will be able to report Low Cost fulfillment data through the use of statistical reporting codes for those insureds that do not have a street address.

Additional changes to the introduction include the deletion of the "Privacy Waiver Form," to update the revision dates for various other forms, and to revise the AIPSO website link so that it accurately reflects the web address.

The deletion of the Privacy Waiver Form language is reasonably necessary because the waiver form is no longer used as part of the Low Cost Automobile Insurance Program application form. Similarly, the revisions, updates and corrections to the AIPSO web address are reasonably necessary to accurately reflect the most current information in the Plan of Operations.

Section 1

The terms "Designated city or county" and "Policy Waiver Form" are hereby deleted. These changes are reasonably necessary because the new CLCA program Plan of Operations no longer uses these terms.

The term "Policy Change Request-Certification Form" is revised to reflect the newest version date for the form, as well as to clarify that the form may be used by an insured to request a change in the policy so long as the insured certifies that he or she is eligible for coverage. These

changes are reasonably necessary to reflect the current policies and procedures relating to Policy Change Request forms.

Sections 2 and 15

Sections 2 and 15 are hereby revised in order to remove any reference to "counties which have been designated operational" or "areas to which this Program is applicable." Because the CLCA program is now available in every California county, these revisions will serve to make the Plan of Operations consistent with recent changes in the law.

These revisions are reasonably necessary to ensure that the introduction to the CLCA program accurately reflects that the CLCA product is available in every California county.

Section 20

A. Original Applications

The revisions to Section 20, paragraph A are designed to reflect the deletion of the "Privacy Waiver Form."

The deletion of the Privacy Waiver Form language is reasonably necessary because the waiver form is no longer used as part of the Low Cost Automobile Insurance Program application form. Similarly, the revisions updates and corrections to the AIPSO web address are reasonably necessary to accurately reflect the most current information in the Plan of Operations.

D. Policy Change Requests

Newly-added section 20, paragraph D will provide notification to all insurance producers that the Policy Change Request Certification Form must be utilized whenever a change is made to a CLCA policy.

This addition is reasonably necessary to facilitate the re-certification of CLCA policyholders whenever a policy change is requested and to also ensure that producers are on notice that the Certification Form must be used whenever such change is requested.

Section 22

The revisions to Section 22, paragraph A.1.a. serve to delete language describing the residence eligibility criteria for the CLCA program. These changes are reasonably necessary because the new CLCA program Plan of Operations no longer uses residence as a criterion for establishing program eligibility.

Revisions to Section 22, paragraph A.1.d.(3)(c) and (d) establish that the term "principally at fault," as used in the Plan of Operations manual, is synonymous with the meaning set forth in 10 California Code of Regulations section 2632.13. These changes are reasonably necessary to

ensure that producers use a consistent and lawful definition of "principally at fault" when assessing an applicant's eligibility for the CLCA program.

Section 23

Revisions to Section 23 paragraph A serve to update the information that must be collected on an automobile insurance application. The amendments to the list of information will update Section 23 so that it reflects the application fields present on the CLCA Insurance Program application. These changes are reasonably necessary to bring the "Application Requirements" provision of the Plan of Operations in line with the data fields that are required on the automobile application.

Revisions have also been made to paragraph B to reflect the deletion of the "Privacy Waiver Form." The deletion of the Privacy Waiver Form language is reasonably necessary because the waiver form is no longer used as part of the Low Cost Automobile Insurance Program application form.

Section 26

The Commissioner's revisions to Section 26 introduce a producer performance standard, which will require certified producers to establish and maintain a trust account for the purpose of issuing producer or agency checks to submit with CLCA Program business.

These revisions are reasonably necessary to implement, interpret and ensure consistency with Insurance Code section 1734, which requires producers to maintain fiduciary funds, such as an insured's premium payments, in a trust account.

Additional revisions will improve and expedite notification to insurance applicants when circumstances demonstrate that an applicant is ineligible for coverage. The revisions to the procedure for returning ineligible applications will now permit the insurer to return the ineligible application directly to the producer when a deposit check does not fully satisfy the earned premium amount due. The insurer must provide copies of the written notice to both the applicant and the Plan.

This change is reasonably necessary in order to ensure that insurance applicants are made aware of a failure to make payment and consequent ineligibility for coverage in a timely fashion. The Commissioner expects that this change will assist applicants for insurance by promptly notifying such applicants of the need to fully pay any outstanding earned premium in order to acquire insurance coverage.

Section 28

Paragraph A.3 has been revised to clarify the written notice procedures pertaining to the return of a CLCA application by the Plan when it is determined that an applicant is ineligible for coverage or when the information relating to an applicant's eligibility for the CLCA program is incomplete.

Paragraph D is amended in order to require that the insurer assigned to underwrite a CLCA policy will provide the applicant with a copy of the written notice to the producer, thereby providing an expedited notice to the applicant that he or she is ineligible for CLCA coverage.

These changes are reasonably necessary to respond to observed instances where the notice procedures previously in place were insufficient to ensure that applicants were made aware of their ineligibility for coverage in a timely manner.

Sections 29, 30 and 37

The Commissioner's revisions to the sections referenced above establish a new requirement that all changes to a CLCA policy be included on the Policy Change Request Certification Form. These revisions also make clear that the producer must complete the Change Request Certification Form.

These changes are reasonably necessary to ensure that changes to CLCA policies are handled in a uniform, organized manner. By requiring producers to complete the Policy Change Request forms, the CLCA Plan will be better able to maintain accurate records of policy changes.

Section 37

Additional revisions to Section 37, Paragraph A.1.a. change existing procedure, concerning the filing of proof of financial responsibility certificates with the DMV, as required by the California Vehicle Code. The new procedure makes clear that the CLCA Plan of Operations Office holds exclusive responsibility for filing financial responsibility certificates.

This change is reasonably necessary to ensure that both producers as well as insurers understand that the CLCA Plan of Operations is responsible for filing Financial Responsibility Certificates with the DMV.

FORMS

Policy Change Request – Certification Form

The Policy Change Request – Certification form has been revised to include a requested effective date, as well as to include information regarding changes to the subject insured vehicle – if any. Additionally, the Policy Change Request – Certification form is revised to include a line to request additional coverages, a field for adding a driver's name, license number and relationship to the applicant.

Each of the changes referenced above are reasonably necessary to implement the California Low Cost Insurance Program laws and each change requests information required under the only legally tenable interpretation of existing law. Specifically, Insurance Code section 11629.71 provides that coverages for liability, uninsured motorist coverage and medical payments coverage must be made available to the consumer. Similarly, Insurance Codes section 11629.73 requires that a driver has been continuously licensed to drive an automobile for three years, is no

less than 19 years old and has not had more than one disqualifying event. This information can only be verified through the use of a prospective insured's driver's license. The Policy Change Request Form has also been revised to add two fields for additional drivers. This change is necessary to implement 2005 Cal.Stat.435 (former Senate Bill 20) which amended the Insurance Code to permit only two policies per person, rather than two policies per household.

Insurer Complaint Form

Fields were added and deleted in order to categorize the nature of the complaint. Because the list of potential categories for the particular complaint includes "Other Problems (Specify in Remarks)", any person filling out the form is not limited to these categories for complaints and these changes are non-substantive in nature. Aside from these technical, non-substantive changes, changes were made to bring the form into conformance with applicable law. Specifically, the Insurer Complaint Form is amended in order to remove obsolete portions of the form that recited former regulatory section 10 Cal. Code Regs., § 2431.3. Because this regulation was repealed in 2004, this language is now obsolete and was therefore removed in order to bring the form into compliance with existing law.

Electronic Effective Date Procedure Retraction Request Form

The Electronic Effective Date Procedure Retraction Request Form has been revised in order to reflect the changes made to the California Low Cost Automobile Plan of Operations in December, 2004. (See CDI File No. RH03028329; OAL Z-file No. Z04-0817-02). Each of the changes to the form are non-substantive in nature because the changes bring the document into conformance with the changes which were proposed and adopted by regulation to the Low Cost Automobile Plan of Operations in 2004.

Electronic Effective Date Procedure Pamphlet

The Electronic Effective Date Procedure Pamphlet represents a brochure which reprints the instructions set forth in the California Low Cost Automobile Plan of Operations. As with the Electronic Effective Date Procedure Retraction Request Form, the changes to the Pamphlet are non-substantive in nature because the changes simply restate the requirements that are currently set forth in the Plan of Operations Manual, which have been proposed and adopted by regulation.

Privacy Waiver Form

The deletion of the Privacy Waiver Form is reasonably necessary because this form has been eliminated from the Low Cost Automobile Insurance Program application form. Similarly, as is stated above, references to the Privacy Waiver Form were deleted from the California Low Cost Automobile Insurance Plan of Operations Manual as part of this rulemaking.

LCA Application

The California Low Cost Automobile Insurance Application form has been revised to conform to the changes also proposed to the California Low Cost Automobile Plan of Operations. As with the Plan of Operations, changes were made to delete the Privacy Waiver Form from the application. Additionally, changes were made to the Application form that are consistent with the revisions to section 23 of the Plan of Operations, which were proposed for amendment as part of this rulemaking action. Specifically, the application is amended to request, among other things, the applicant's former address for the past three years, the nature of the applicant's business, whether the applicant's vehicle is new or used, whether the applicant has been involved in an accident where the applicant was principally at fault, the method of payment and the total deposit amount of premium payment submitted. Each of these changes is reasonably necessary to ensure that the California Low Cost Automobile Insurance Application is consistent with the changes made to the California Low Cost Automobile Plan of Operations.

FORMS INCORPORATED BY REFERENCE

The following forms are hereby incorporated by reference, in accordance with Title 1, California Code of Regulations section 20. The forms referenced herein represent just a portion of the materials used in processing a Low Cost Automobile Insurance application; items such as pamphlets, complaint forms and related documents were revised as part of this rulemaking action. Because the breadth and extent of forms used in processing a Low Cost Application are voluminous, the Commissioner has determined that it would be cumbersome, unduly expensive and impractical to publish these forms in the California Code of Regulations.

All of the forms referenced below have been on the Department's website since August 15, 2008 and have been available as part of the rulemaking file for any member of the public to view, upon request.

The specific forms that the Commissioner hereby incorporates by reference are identified directly below.

Policy Change Request – Certification Form

[Amend the Policy Change Request – Certification Form as follows: Replace the entire form with the Policy Change Request – Certification Form (AIP-127 (Rev 1/1/06), a copy of which is enclosed within this rulemaking file]

Insurer Complaint Form

[Amend the Insurer Complaint Form as follows: Replace the entire form with the Company Performance Complaint Form (AIP 1255 Rev 12/04), a copy of which is enclosed within this rulemaking file]

Electronic Effective Date Procedure Retraction Request Form

[Amend the Electronic Date Procedure Retraction Request Form as follows: Replace the entire form with the Electronic Effective Date Retraction Request Form (AIP-1247 Rev 07/05), a copy of which is enclosed within this rulemaking file]

Electronic Effective Date Procedure Pamphlet

[Amend the Electronic Date Procedure Pamphlet as follows: Replace the entire pamphlet with the Electronic Effective Date Procedure Pamphlet (AIP 101 Rev 01/05), a copy of which is enclosed within this rulemaking file]

Privacy Waiver Form

[Delete the Privacy Waiver Form]

LCA Application

[Amend the LCA Application as follows: Replace the entire application form with the California Low Cost Automobile Insurance Program Application for Insurance (AIP 126E Rev. 06/08), a copy of which is enclosed within this rulemaking file]

MANDATES

The regulations do not impose a mandate on local agencies or school districts.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

IDENTIFICATION OF STUDIES

The Commissioner, in proposing the adoption of these regulations, did not rely upon any data or technical, theoretical or empirical study, report or similar document.

SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed regulations will not mandate the use of specific technologies or equipment.

REASONABLE ALTERNATIVES

The Commissioner has determined that no reasonable alternatives exist to carry out the purpose for which the regulations are proposed. Performance standards were considered but were rejected as an unreasonable and impracticable alternative. While the Commissioner invited public comments on the proposed changes and reasonable alternatives which would be as

effective to carry out the proposed changes, no comments were submitted concerning these regulations.

ECONOMIC IMPACT ON BUSINESS

The Commissioner has initially determined that the proposed regulations will not have a significant adverse economic impact on businesses because the changes to the Plan of Operations Manual represent minor alterations. While the Commissioner invited interested parties to comment on whether the proposed regulations will have a significant adverse economic impact on business, no comments were submitted concerning these regulations.

ECONOMIC IMPACT ON SMALL BUSINESS

The Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses. Nor have any such alternatives otherwise been identified and brought to the attention of the Commissioner that would lessen any impact on small business. To the extent that the proposed regulations affect insurance companies, the proposed regulations do not affect small business. (See Gov. Code § 11342.610.)

SUMMARY AND RESPONSE TO COMMENT

The Commissioner did not receive any comments regarding this rulemaking.